WP(C) 3971/2007

BEFORE

THE HON’BLE MR JUSTICE IA ANSARI

Heard Mr. S Ali, learned counsel for the petitioner, and Mr. PK Roy, learned Senior Government Advocate, appearing on behalf of the respondents.

By a Notice Inviting Tender (NIT), dated 17-04-2007, the respondent No. 4, namely, Chief Executive Officer, Barpeta Zilla Parishad, Barpeta, invited tenders for settlement of Mandia Hat. Though the petitioner was not the highest bidder, respondent No.3 decided to give settlement in favour fo the petitioner. In view, however, of the fact that no settlement can be made in favour of the person, other than the highest bidder, without prior approval of the Government, the respondent No.4 recommended the case of the writ petitioner to the Government for according necessary approval in terms of Panchayat (Financial) Rules, 2002. The Government has, however, not taken any decision on the recommendation, so made. In the meanwhile, by an order, dated 31-07-2007, the respondent No. 4 has settled the said Hat in favour of the petitioner for a period of one month, with effect from 01-08-2007 to 31-08-2007.

In view of the fact that granting of settlement requires prior approval of the Government in terms of the provisions of the said Rules, if the bidder is not the highest bidder, the provisional settlement made in favour of the petitioner cannot be sustained.

Considering, however, the matter in its entirety and in the interest of justice, it is hereby directed that the respondent No.1 shall examine and consider, in accordance with law and in terms of the relevant policy of the Government, the recommendations, made by the respondent No. 4 in favour of the petitioner, by the order, dated 31-07-2007, aforementioned. Upon such examination and consideration, as directed hereinbefore, the respondent No.1 shall pass such order(s) as may be necessary in fact and in law and communicate the same to the respondent No.4. The whole exercise, so directed, shall be completed within a period of two weeks from the date of receipt of a certified copy by the respondent No. 4. The petitioner shall furnish to the respondent Nos. 1 a certified copy of this order along with copies of the writ petition and annexures thereto. If the petitioner feels aggrieved by the order(s), which may be passed by the respondent No. 1, the petitioner shall be at liberty to take recourse to such provisions of law as may be permissible.